



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 10/815,533 | 04/01/2004 | Robert F. Sinclair | 7456 | 1578 |

7590 12/12/2005
Paul M. Denk
Ste. 170
763 S. New Ballas Road
St. Louis, MO 63141

EXAMINER

NGUYEN, THUKHANH T

ART UNIT PAPER NUMBER

1722

DATE MAILED: 12/12/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/815,533

Applicant(s)

SINCLAIR, ROBERT F.

Examiner

Thu Khanh T. Nguyen

Art Unit

1722

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 September 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) 14-20 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 5/10/04.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____.

DETAILED ACTION

Election/Restrictions

1. The traversal is on the ground(s) that the Applicant believes that it would not be unduly burdensome for the Examiner to search the three embodiments. This is not found persuasive because of applicants' allegation that joiner of these distinct inventions would not present a serious burden to the U.S. Patent and Trademark Office. This allegation relied on the unsupported assumption that the search and examination of both inventions would be coextensive. However, the issues raised in the examination of apparatus claims are divergent from those raised in the examination of process claims. Further, while there may be some overlap in the searches of the two inventions, there is no reason to believe that the searches would be identical. Therefore, based on the additional work involved in searching and examining both distinct inventions together, restriction of the distinct inventions is clearly proper.

Specification

2. The disclosure is objected to because of the following informalities: on page 1 of the specification, and in the declaration, the parent application should have been 10/411,551 instead of 10/411,511. Please make correction and update the status of this application in the declaration and the specification.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Art Unit: 1722

4. Claims 1-13 are rejected under 35 U.S.C. 102(b) as being anticipated by Gross (4,569,649).

Gross discloses a machine for making earth blocks, comprising a compression chamber (34a) for forming building blocks from earth (col. 1, lines 7-9), a slide member which is corresponding to a ram (80) connected to a ram head (70) for compacting the material in the compression chamber.

In regard to claim 2, the apparatus further comprises a second compression chamber (34b), which is compressed by a second ram head (col. 6, lines 28-31).

In regard to claims 3-5, the apparatus further comprises a filling chamber (18, 61) connected to the compression chamber (34a-b, col. 5, lines 16-25).

In regard to claims 7-9, Gross discloses a gate (73) capable of opening and closing the compression chamber (35-51) by an actuator (75).

In regard to claim 11, the apparatus further comprises a hydraulic cylinder (94) for moving the slide member (80) which moves the ram heads (70).

In regard to claim 13, Gross further discloses a central processor (180), which is a programmable controller for controlling the apparatus throughout the blocks forming process (col. 9, lines 14-60).

5. Claims 1, 3-13 are rejected under 35 U.S.C. 102(b) as being anticipated by Underwood (6,347,931).

Underwood teaches block ramming machine, comprising a compression chamber (28) containing compressible block (col. 1, lines 09-12), a ram (21) connected to a ramming plate (30)

Art Unit: 1722

for compress material into a cured block (180), wherein the ram capable of compressing the material into a desired shape conforming to the interior surfaces of the compression chamber (28), and a fill chamber (46) linearly connecting to the compression chamber (28).

In regard to claims 7-9, the apparatus further comprises a gate (70) blocking the compression chamber (28), wherein the gate (70) connected to an actuator (63) for opening and closing the compression chamber (28).

In regard to claims 10, the compression chamber (16, 28) comprises a ridge on the inner surface (17a-d) for shaping the surface of the forming blocks (col. 6, lines 55-61).

In regard to claims 11-12, the ramming device can either be hydraulic or pneumatic (col. 1, lines 4-7).

In regard to claim 13, the apparatus further comprises a controller (col. 9, line 53-54) for automatically control the operation of the ramming machine (col. 4, lines 56-67).

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Gross (4,569,649) as applied to claims 1-9, 11 and 13 above and further in view of Crane (4,445,839).

Gross discloses a dual-press for forming earth blocks as described above, but fails to disclose that the ramming device is pneumatic.

Art Unit: 1722

Crane discloses a concrete mold press, comprising a mold (4) and a press head (12) movable by a fluid operatable cylinder (15), which could be pneumatic or hydraulic (col. 4, lines 7-10).

It would have been obvious to one of ordinary skill in the art at the time the applicant's invention was made to modify Gross by replacing the hydraulic cylinder by a pneumatic cylinder as taught by Crane because the pneumatic cylinder is usable in alternative to the hydraulic cylinder.

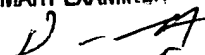
8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thu Khanh T. Nguyen whose telephone number is 571-272-1136. The examiner can normally be reached on Monday- Friday, 6:30-4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Duane Smith can be reached on 571-272-1166. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

TN

DUANE SMITH
PRIMARY EXAMINER


12-7-05